**THE HONOURABLE SRI JUSTICE V.ESWARAIAH**

**WRIT PETITION No:16408 of 2007**

**DATED:02-08-2007**

**BETWEEN:**

M/Simhadri Transports,
Rep., by its Proprietor,
K.Satyanarayana,
Office at D.No.26-3-8A/65,E1/7,
Janatha Complex, Statdium road,
Visakhapatnam.

**..... PETITIONER**

**AND**

Andhra Pradesh State Civil Supplies Corporation Limited,
Rep., by its District Manager,
Visakhapatnam & 4 others.

**.....RESPONDENTS**

**ORDER:**

Heard learned counsel appearing for the petitioner as well as the learned Government Pleader for Civil Supplies appearing for the respondents.

2. Petitioner seeks a writ of mandamus declaring the action of the 1st respondent in proposing to entrust the contract work of transporting foodgrains, pulses, or any other commodity by 4th respondent through 5th respondent, during the existence of agreement, dated 07-04-2007, between the respondents 1 and 3 and petitioner, as illegal, and arbitrary.

3. When the Writ Petition is ordered to be admitted and directed to issue notice in the Miscellaneous Petition today, learned counsel appearing for the petitioner insisted to hear and dispose of the Writ Petition itself stating that if any interim order is not passed no purpose would be served and he will work out his remedies. Accordingly I have taken up the Writ Petition for final disposal.

4. It is the case of the petitioner that pursuant to the tender notification, dated 24-02-2007, calling for tenders from the transport contractors for transportation of foodgrains and pulses from Visakhapatnam, petitioner's tender was accepted after negotiations vide letter, dated

17-03-2007, and accordingly the 1st respondent-District Manager entered into an agreement, dated 07-04-2007. It is stated that the description of the work entrusted to him is the transport of foodgrains, pulses, or any other commodity entrusted by the Government from time to time from various places within the district and outside the district of Visakhapatnam to various places within the same district or outside the district but within the State. The contract will also include transport between one point in a village/town/city to another point in the same village/town/city. The volume of the work depends on the allotments made by the Government of India/Government of A.P., under various schemes from time to time. It is stated that the period of contract is from 07-04-2007 to 31-02-2008 which can be extended by the Joint Collector at his sole discretion.

5. As per Clause 7 of the Agreement, Corporation does not guarantee any volume of the work at any time during the currency of agreement and mere mention of the item of work in the agreement of the quantities mentioned in the tender does not itself confer any right on the contractor to demand that the entire work should necessarily or exclusively be entrusted to him. The Corporation reserves the right to appoint one or more other contractors and distribute the work among them during the currency of the agreement at its unfettered discretion in any manner that it may decide and no claim for compensation shall lie against the Corporation by reasons whatsoever of such division of work. The decision of the Corporation in the matter shall be in final and binding on the contractor. The Corporation is having RPDS

vehicles and can be utilized for movement of foodgrains under the contract wherever necessary and the same cannot be called into question.

6. It is the case of the petitioner that the 4th respondent called for tenders for the purpose of transportation of foodgrains, pulses, and other commodities and finalized the tender on 17-07-2007 in favour of the 5th respondent who is an independent contractor. It is stated that the 4th respondent can entrust the transportation work from the head quarters of East Godavari District to any place within the State likewise as mentioned in Clause 1(a) of the agreement, dated

07-04-2007, but the 5th respondent cannot be asked to transport from Visakhapatnam District under the control of 1st respondent. Petitioner questions the action of the 4th respondent in entrusting the transportation work in favour of the 5th respondent originating from Visakhapatnam. Petitioner has not filed the tender or the nature of work entrusted or to be entrusted to him but only made allegations that the 4th respondent asked the 5th respondent to transport the foodgrains from Visakhapatnam District to other places. It is stated that the petitioner has exclusive right and authority to transport the foodgrains from Visakhapatnam.

7. A perusal of the agreement goes to show no such exclusive right is conferred on the petitioner to transport the foodgrains. Clause 7 of the agreement goes to show that the Corporation does not guarantee any volume of the work at any time during the

currency period of agreement and the corporation reserves the right to appoint one or more other contractors and distribute the work among them during the currency of this agreement at its unfettered discretion in any manner that it may decide and no claim for compensation shall lie against the Corporation by any reasons whatsoever of such division of work. Therefore, I am of the opinion that no exclusive right has been conferred on the petitioner to get the foodgrains transported. Therefore, I do not see any merits in the Writ Petition. However, if there is any breach of contract the only course open for the petitioner is to avail the appropriate remedy under Clause 26 of the agreement but the apprehended action cannot be decided in this Writ Petition. The petitioner has not filed the so-called tender said to have been called for by the 4th respondent or any entrustment of any acceptance letter in favour of the 5th respondent.

8. The Writ Petition is without any merits. It is accordingly dismissed. No order as to costs.

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**V.ESWARAIAH,J**

02nd August, 2007.

**Note:**

Furnish C.C. of the order
within two days.

B/o
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